

AMENDED IN ASSEMBLY APRIL 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 274**

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**Introduced by Assembly Member Garrick**

February 7, 2011

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An act to ~~amend Sections 1030, 1327, and 1328 of~~ *add Section 1028.5* to the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 274, as amended, Garrick. Unemployment insurance benefits: claims: right to respond.

Existing law requires the Employment Development Department to provide notice of the filing of an unemployment claim to the claimant's last employing unit, and requires the employing unit to submit, within 10 days after the mailing of the notice, any facts that may affect the claimant's eligibility for benefits, as specified, *and permits this 10-day period to be extended for good cause.*

This bill would ~~extend the time in which the employing unit is required to submit those facts to 30 days and would make conforming changes to other related provisions~~ *additionally require the department, when notifying an employing unit that an unemployment claim has been filed, to provide a direct link to its Internet Web site to the page that describes what circumstances establish good cause.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1028.5 is added to the Unemployment  
2     Insurance Code, to read:

3     1028.5. When notifying an employing unit that an  
4     unemployment claim has been filed, the department shall provide  
5     a direct Internet Web site link to the page that describes what  
6     circumstances establish good cause, which link is available at  
7     [http://www.edd.ca.gov/UIBDG/Miscellaneous\\_MI\\_40.htm](http://www.edd.ca.gov/UIBDG/Miscellaneous_MI_40.htm) or its  
8     successor Web site address, as it may be updated.

9     SECTION 1. Section 1030 of the Unemployment Insurance  
10    Code is amended to read:

11    1030. ~~(a) Any employer who is entitled under Section 1327~~  
12    ~~to receive notice of the filing of a new or additional claim may,~~  
13    ~~within 30 days after mailing of the notice, submit to the department~~  
14    ~~any facts within its possession disclosing whether the claimant left~~  
15    ~~the employer's employ voluntarily and without good cause or left~~  
16    ~~under one of the following circumstances:~~

17    ~~(1) The claimant was discharged from the employment for~~  
18    ~~misconduct connected with his or her work.~~

19    ~~(2) The claimant's discharge or quitting from his or her most~~  
20    ~~recent employer was the result of an irresistible compulsion to use~~  
21    ~~or consume intoxicants including alcoholic beverages.~~

22    ~~(3) The claimant was a student employed on a temporary basis~~  
23    ~~and whose employment began within, and ended with his or her~~  
24    ~~leaving to return to school at the close of, his or her vacation~~  
25    ~~period.~~

26    ~~(4) The claimant left the employer's employ to accompany his~~  
27    ~~or her spouse or domestic partner to a place or to join him or her~~  
28    ~~at a place from which it is impractical to commute to the~~  
29    ~~employment, and to which a transfer of the claimant by the~~  
30    ~~employer is not available.~~

31    ~~(5) The claimant left the employer's employ to protect his or~~  
32    ~~her family or himself or herself from domestic violence abuse.~~

33    ~~The period during which the employer may submit these facts~~  
34    ~~may be extended by the director for good cause.~~

35    ~~(b) Any base period employer that is not entitled under Section~~  
36    ~~1327 to receive notice of the filing of a new or additional claim~~  
37    ~~and is entitled under Section 1329 to receive notice of computation~~  
38    ~~may, within 15 days after mailing of the notice of computation,~~

1 submit to the department any facts within its possession disclosing  
2 whether the claimant left the employer's employ voluntarily and  
3 without good cause or left under one of the following  
4 circumstances:

5 (1) The claimant was discharged from the employment for  
6 misconduct connected with his or her work.

7 (2) The claimant was a student employed on a temporary basis  
8 and whose employment began within, and ended with his or her  
9 leaving to return to school at the close of, his or her vacation  
10 period.

11 (3) The claimant left the employer's employ to accompany his  
12 or her spouse or domestic partner to a place or join him or her at  
13 a place from which it is impractical to commute to the employment,  
14 and to which a transfer of the claimant by the employer is not  
15 available.

16 (4) The claimant left the employer's employ to protect his or  
17 her family or himself or herself from domestic violence abuse.

18 The period during which the employer may submit these facts  
19 may be extended by the director for good cause.

20 (e) The department shall consider these facts together with any  
21 information in its possession. If the employer is entitled to a ruling  
22 under subdivision (b) or to a determination under Section 1328,  
23 the department shall promptly notify the employer of its ruling as  
24 to the cause of the termination of the claimant's employment. The  
25 employer may appeal from a ruling or reconsidered ruling to an  
26 administrative law judge within 20 days after mailing or personal  
27 service of notice of the ruling or reconsidered ruling. The 20-day  
28 period may be extended for good cause, which includes, but is not  
29 limited to, mistake, inadvertence, surprise, or excusable neglect.  
30 The director is an interested party to any appeal. The department  
31 may for good cause reconsider any ruling or reconsidered ruling  
32 within either five days after the date an appeal to an administrative  
33 law judge is filed or, if no appeal is filed, within 20 days after  
34 mailing or personal service of notice of the ruling or reconsidered  
35 ruling. However, a ruling or reconsidered ruling that relates to a  
36 determination that is reconsidered pursuant to subdivision (a) of  
37 Section 1332 may also be reconsidered by the department within  
38 the time provided for reconsideration of that determination.

39 (d) For purposes of this section only, if the claimant voluntarily  
40 leaves the employer's employ without notification to the employer

1 of the reasons for the leaving, and if the employer submits all of  
2 the facts within its possession concerning the leaving within the  
3 applicable time period referred to in this section, the leaving is  
4 presumed to be without good cause.

5 (e) An individual whose employment is terminated under the  
6 compulsory retirement provisions of a collective bargaining  
7 agreement to which the employer is a party shall not be deemed  
8 to have voluntarily left his or her employment without good cause.

9 (f) For purposes of this section “spouse” includes a person to  
10 whom marriage is imminent, and “domestic partner” includes a  
11 person to whom a domestic partnership, as described in Section  
12 297 of the Family Code, is imminent.

13 SEC. 2. Section 1327 of the Unemployment Insurance Code  
14 is amended to read:

15 1327. The department shall give a notice of the filing of a new  
16 or additional claim to the employing unit by which the claimant  
17 was last employed immediately preceding the filing of the claim  
18 unless the additional claim is the result of the filing of a partial  
19 claim as defined by the department, there has not been a subsequent  
20 employing unit which is designated as the last employer, and there  
21 is no separation issue. The employing unit so notified shall submit  
22 within 30 days after the mailing of the notice any facts then known  
23 that may affect the claimant’s eligibility for benefits, including,  
24 but not limited to, facts pertaining to eligibility under Section 1256.  
25 The 30-day period may be extended for good cause. If after the  
26 30-day period the employing unit acquires knowledge of facts that  
27 may affect the eligibility of the claimant and facts could not  
28 reasonably have been known within the period, the employing unit  
29 shall, within 30 days of acquiring the knowledge, submit the facts  
30 to the department, and the 30-day period may also be extended for  
31 good cause.

32 SEC. 3. Section 1328 of the Unemployment Insurance Code  
33 is amended to read:

34 1328. The department shall consider the facts submitted by an  
35 employer pursuant to Section 1327 and make a determination as  
36 to the claimant’s eligibility for benefits. The department shall  
37 promptly notify the claimant and any employer who prior to the  
38 determination has submitted any facts or given any notice pursuant  
39 to Section 1327 or this section and authorized regulations of the  
40 determination or reconsidered determination and the reasons

1 ~~therefor. If after notice of a determination or reconsidered~~  
2 ~~determination the employing unit acquires knowledge of facts~~  
3 ~~which may affect the eligibility of the claimant and those facts~~  
4 ~~could not reasonably have been known within the 30-day period~~  
5 ~~provided by Section 1327, the employing unit shall within 10 days~~  
6 ~~of acquiring that knowledge submit those facts to the department,~~  
7 ~~and the 10-day period may be extended for good cause. The~~  
8 ~~claimant and any such employer may appeal from a determination~~  
9 ~~or reconsidered determination to an administrative law judge within~~  
10 ~~20 days from mailing or personal service of notice of the~~  
11 ~~determination or reconsidered determination. The 20-day period~~  
12 ~~may be extended for good cause, which shall include, but not be~~  
13 ~~limited to, mistake, inadvertence, surprise, or excusable neglect.~~  
14 ~~The director shall be an interested party to any appeal.~~

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